

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING FUNDS FROM THE COAL SEVERANCE TAX PERMANENT FUND TO THE GENERAL FUND FOR THE PURPOSES OF APPROPRIATION; INCREASING THE RATE OF THE SEVERANCE TAX ON COAL AND PROVIDING FOR THE DEPOSIT OF THE REVENUE FROM THE INCREASED TAX IN THE COAL SEVERANCE TAX TRUST FUND; AMENDING SECTIONS 15-35-103 AND 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION.** **Section 1. Short title.** [Sections 1 through 7] must be known as the "Budget Balancing Compromise Act of 2003".

**NEW SECTION.** **Section 2. Fund transfer.** The amount of \$29 million is transferred from the coal severance tax permanent fund to the general fund prior to June 30, 2004, for appropriation. The office of budget and program planning shall determine the timing of transfers and the amount to be transferred subject to the \$29 million limit.

**Section 3.** Section 15-35-103, MCA, is amended to read:

**"15-35-103. (Temporary) Severance tax -- rates imposed.** (1) (a) A severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

Heating quality	Surface	Underground
(Btu per pound of coal):	Mining	Mining
Under 7,000	10% of value	3% of value
7,000 and over	<del>15%</del> <u>22.5%</u> of value	4% of value

(b) The rate of taxation for coal that meets the following conditions is one-third the applicable rate set forth in subsection (1)(a), rounded to the nearest 10th of a percent:

(i) The coal is used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001, and before January 1, 2008.

(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost to be set by the public service commission that reflects the producer's cost of generating the electricity plus a reasonable return on investment.

(2) "Value" means the contract sales price.

(3) The formula that yields the greater amount of tax in a particular case must be used at each point on the schedule.

(4) A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer is liable for severance tax upon all coal produced in excess of the first 20,000 tons.

(5) In addition to the exemption described in subsection (4), a person is not liable for any severance tax upon up to 2 million tons of coal that the person produces as feedstock for coal enhancement facilities in a calendar year, except if more than 2 million tons of coal are produced as feedstock for coal enhancement facilities in a calendar year, the producer is liable for severance tax on all coal produced as feedstock for these facilities in excess of the first 2 million tons. (Terminates December 31, 2005--sec. 5, Ch. 318, L. 1995.)

**15-35-103. (Effective January 1, 2006) Severance tax -- rates imposed.** (1) (a) A severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

Heating quality	Surface	Underground
(Btu per pound of coal):	Mining	Mining
Under 7,000	10% of value	3% of value
7,000 and over	<del>15%</del> <u>22.5%</u> of value	4% of value

(b) The rate of taxation for coal that meets the following conditions is one-third the applicable rate set forth in subsection (1)(a), rounded to the nearest 10th of a percent:

(i) The coal is used for the production of electricity within the state in an electrical generation facility that was constructed after December 31, 2001, and before January 1, 2008.

(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost to be set by the public service commission that reflects the producer's cost of generating the electricity plus a reasonable return on investment.

(2) "Value" means the contract sales price.

(3) The formula that yields the greater amount of tax in a particular case must be used at each point on the schedule.

(4) A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer is liable for severance tax upon all coal produced in excess of the first 20,000 tons."

**Section 4.** Section 15-35-108, MCA, is amended to read:

**"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) ~~Fifty percent~~ The amount of 66.5% of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) ~~For the fiscal year ending June 30, 2003, the amount of 10% and for fiscal years beginning on or after July 1, 2003, the amount of 4.2%~~ 8% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) ~~For the fiscal year ending June 30, 2003, the amount of 6.01% and for fiscal years beginning on or after July 1, 2003, the amount of 7.75%~~ 5.2% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) For fiscal years beginning on or after July 1, 2003, the amount of ~~4.27%~~ 0.86% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of ~~0.95%~~ 0.64% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) For fiscal years beginning on or after July 1, 2003, the amount of ~~0.63%~~ 0.42% must be allocated

1 to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic  
2 projects. Income from this trust fund, excluding unrealized gains and losses, must be appropriated for protection  
3 of works of art in the state capitol and for other cultural and aesthetic projects.

4 (7) (a) Subject to subsections (7)(b) and (7)(c), all other revenue from severance taxes collected under  
5 the provisions of this chapter must be credited to the general fund of the state.

6 (b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited  
7 in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

8 (i) \$65,000 to the cooperative development center;

9 (ii) ~~for the fiscal year beginning July 1, 2001, \$1.25 million, for the fiscal year beginning July 1, 2002,~~  
10 ~~\$925,000, and for fiscal years beginning on or after July 1, 2003, \$1.25 million for the growth through agriculture~~  
11 ~~program provided for in Title 90, chapter 9;~~

12 (iii) to the department of commerce:

13 (A) \$125,000 for a small business development center;

14 (B) \$50,000 for a small business innovative research program;

15 (C) ~~except for the fiscal year beginning July 1, 2002, \$425,000 for certified communities;~~

16 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

17 and

18 (E) \$300,000 for export trade enhancement;

19 (iv) \$175,000 to the office of economic development for business recruitment and retention; and

20 (v) \$600,000 to the department of administration for the purpose of reimbursing tax increment financing  
21 industrial districts as provided in 7-15-4299. Reimbursement must be made to qualified districts on a proportional  
22 basis to the loss of taxable value as a result of Chapter 285, Laws of 1999, and as documented by the  
23 department of revenue. This documentation must be provided to the budget director and to the legislative fiscal  
24 analyst. The reimbursement may not be used to pay debt service on tax increment bonds to the extent that the  
25 bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner  
26 of property within the district.

27 (c) ~~For the fiscal year beginning July 1, 2001, there is transferred from the interest income referred to~~  
28 ~~in subsection (7)(b) \$4.85 million to the research and commercialization state special revenue account created~~  
29 ~~in 90-3-1002. For the fiscal year beginning July 1, 2002, there is transferred from the interest income referred~~  
30 ~~to in subsection (7)(b) \$3.165 million to the research and commercialization state special revenue account~~

~~created in 90-3-1002.~~ Beginning July 1, 2003, there is transferred annually from the interest income referred to in subsection (7)(b) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002. (Terminates June 30, 2005--sec. 10(2), Ch. 10, Sp. L. May 2000; sec. 8(1), Ch. 12, Sp. L. August 2002.)

**15-35-108. (Effective July 1, 2005) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) ~~Fifty percent~~ The amount of 66.5% of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) ~~Twelve percent~~ The amount of 8% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of ~~7.75%~~ 5.2% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of ~~4.27%~~ 0.86% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of ~~0.95%~~ 0.64% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of ~~0.63%~~ 0.42% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

NEW SECTION. **Section 5. Three-fourths vote.** Because [section 2] transfers funds from the coal severance tax trust fund to the general fund for appropriation by a majority vote, Article IX, section 5, of the Montana constitution requires a vote of three-fourths of the members of each house of the legislature for passage.

**NEW SECTION.** **Section 6. Effective date.** [This act] is effective July 1, 2003.

**NEW SECTION.** **Section 7. Termination.** [Sections 3 and 4] terminate June 30, 2005.

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